

# INPATRIATES

## United States

### Tax facts for international assignees



#### **INCOME TAX: WHO IS LIABLE/RESIDENCY**

Nonresidents are taxed on income earned in the US (i.e. US Source Income). This can include wages/salaries allocated to US workdays, rental income from US properties, and certain capital gains/losses on US-based assets.

Residents are taxed on worldwide income regardless of where it is earned or paid. This includes foreign investment accounts and rental properties.

A foreign national becomes a US resident in one of two ways:

#### **Substantial Presence Test**

Once an individual is present in the US for at least 31 days in a calendar year AND more than 183 days over a 3-year period (which includes 100% of US days in the current year, plus 1/3rd of the US days in the preceding year, plus 1/6th of the US days in the second preceding year).

#### **US Greencard Test**

One becomes a lawful permanent resident of the US by obtaining a “green card”.

The tax filing deadline is April 15th of the following year (i.e. 2020 US Income Tax Returns are due on April 15, 2021).

In addition to Federal tax, there may also be state and sometimes local tax jurisdictions in which the individual must file. Some of these jurisdictions will follow the Federal treatment while others will have slightly different determinations for residency and filing requirements.

If working in the US, periodic tax withholdings are required and should be set up through the employer by submitting a Form W-4 (and state equivalent, if applicable) to the employer’s payroll department.

A taxpayer may be able to reduce taxable income by utilizing individual exemptions for taxpayer, spouse and each family member that has a valid US social security number (SSN) or individual taxpayer identification number (ITIN). There are limitations to these exemptions if you file as a nonresident.

The US allows for tax deductions based on the amount of mortgage/investment interest, property taxes, and state/local taxes you may pay; as well as for charitable contributions to qualified US charities. There may be limitations to these deductions if you are filing as a nonresident.

The US will look to tax income earned while resident regardless of when it is paid. For example, if you receive stock option income or a cash incentive related to a year you were resident in the US but exercised or received the cash in a year when you were nonresident, the portion of the income that relates to your time in the US will be considered taxable in the US.

#### **Non-US Investments and Assets**

Resident taxpayers may also have an annual filing requirement to report their non-US bank and other financial accounts (Form FinCEN 114 - previously Form TD F 90-22.1). This is required if the balances in the accounts exceed \$10,000 in aggregate at any point during the year.

Additionally, Form 8938 may be required if foreign assets exceed \$50,000 (\$100,000 for married couples) including the value of any foreign pension plans the taxpayer may be a part of.

Other disclosure or reporting requirements exist for ownership in specific foreign activities such as ownership in foreign corporations, partnerships, estate/trusts and pensions.

## INCOME TAX RATES

Tax rate	Married filing jointly income	Single income
10%	\$0 - \$19,750	\$0 - \$9,875
12%	\$19,750 - \$80,250	\$9,875 - \$40,125
22%	\$80,250 - \$171,050	\$40,125 - \$85,525
24%	\$171,050 - \$326,600	\$85,525 - \$163,300
32%	\$326,600 - \$414,700	\$163,300 - \$207,350
35%	\$414,700 - \$622,050	\$207,350 - \$518,400
37%	Over \$622,050	Over \$518,400

### Net Investment Income Tax (Surtax)

Beginning for tax years 2013 and forward, a Net Investment Income Tax needs to be considered. This tax will be assessed on net investment income at a rate of 3.8% on individuals whose total adjusted gross income exceeds \$200,000 (\$250,000 for MFJ).

Net investment income is determined by accumulating all investment income such as interest, dividends, capital gains and rental income. Certain investment related expenses (such as investment interest expense) are subtracted in determining the net investment income.

### SOCIAL TAX RATES

The current maximum taxable earnings amount for Social Security (OASDI) taxes is \$137,700. The tax rates for OASDI taxes are:

- Employee - 6.2%
- Employer - 6.2%

Additionally, there is a Medicare Hospital Insurance tax that is charged on earned income. The tax rate is:

- On income up to \$200,000 (\$250,000 if Married, Filing Jointly) - 1.45%
- On income over \$200,000 (\$250,000 if Married, Filing Jointly) - 2.35%

An individual may be exempt from social taxes in the US under specific immigration visas.

Additionally, where the US has entered into a Totalization Agreement with a country, and an individual remains employed by a company from that country, the individual may be exempt from US social taxes.

In order to utilize this exemption, the company and individual should obtain a Certificate of Coverage from the home country.

### REGISTRATION/FORMALITIES

If an individual is not eligible to work in the US, an SSN cannot be obtained. One can then apply for an ITIN. An ITIN is only to be obtained/used for tax purposes and is often needed in order to claim an exemption for a non-working spouse or dependent of an inbound assignee. This is typically done through Form W-7 along with a certified copy of a passport.

Upon departure from the US, Form W-8BEN may be necessary to provide to US banks and financial institutions to show a reduced treaty tax rate to be applied upon distribution of funds, including pension and retirement funds.

Within 2 weeks prior to departure from the US, a Form 1040C (Sailing Permit) may be required and should be taken to the local IRS office, in person, to prove no outstanding tax liability exists.

For US Citizens/green card holders (where a green card is held for any part of 8 years in the last 15 years), an exit tax may exist upon the termination of US status. All assets are deemed to be sold and any appreciation will be taxed as of the date of permanent expatriation/forfeiture of green card.

For further information and to register for future updates contact [expat@bdo.global](mailto:expat@bdo.global)

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